

Appl. No. 09/522,628

### REMARKS

In the Office Action mailed May 6, 2004, the Examiner rejected all pending claims 19, 27, and 34-36. Claims 19 and 34 have been amended. As a result, claims 19, 27, and 34-36 remain pending in the present application (2 independent claims, 5 claims total). No new matter has been added by this Amendment. Reconsideration is respectfully requested in light of the following Remarks.

**A. Withdrawal of Claim Rejections - 35 U.S.C. § 112**

Applicants thank the Examiner for the withdrawal of the rejections based on Section U.S.C. 112, second paragraph.

**B. Claim Rejections -- 35 U.S.C. § 103**

Claims 19, 27, and 34-36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,923,884 (the "Peyret reference") in view of U.S. Patent No. 6,105,008 (the "Davis reference").

Applicants agree that the Peyret reference discloses the download of an application onto a smartcard. The application has associated "usage rights" which have an "initial value" (and can be replenished) -- all of which is stored on a remote database of some kind.

The Peyret reference mentions authentication of the terminal and server (column 7, line 45). All of the applications downloaded onto the card are directly downloaded from that server. (column 7, lines 50-59), and the smartcard itself directs the loading of applications. (column 7, lines 53). Accordingly, Applicants respectfully submit that the Peyret reference does not include

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delegation of download to a third party, as the Examiner suggests in paragraph 7 of the Office Action.

As the Examiner notes, the Peyret reference does not disclose the creation of an acknowledgement. The Davis reference is cited as supplying this element, but the Davis reference does not disclose a system wherein the data is transferred by the external device as delegated by the issuer as variously recited in the claims as amended.

The transfer of data disclosed in the Davis reference is not delegated, but is merely initiated by the User himself (see step 871 in Fig. 18A), after which the client terminal (which interfaces with the smart card) issues the load request to the load server (step 878 in Fig. 18A). In contrast, the present invention, as embodied in the pending claims, involves the delegated download of software in a way which is essentially transparent to the User of the smartcard.

The software is transferred "as delegated by" the information owner (e.g., the issuer) as recited in independent claims 9, and 34. The merchant server of Davis is not an "information owner" in the sense that the card issuer is the information owner of the transferred software delegated to the third party ("the external device") as recited in pending independent claims 1 and 19.

Because even the combination of the cited references fails to anticipate each and every element of the independent claims, the dependent claims are believed to be patentable *a fortiori* and a detailed response to each of the dependent claim rejections is not necessary at this time. Nevertheless, Applicant reserves the right to independently demonstrate the patentability of any element found in the dependent claims at a later date. Furthermore, there is no need to discuss in detail the fact that there is no motivation or suggestion to combine the two references.

In summary, the cited references fail to disclose, suggest, or teach one or more elements of independent claims 19 and 34 as amended and the various dependent claims depending therefrom. Accordingly, Applicants respectfully request that the Section 103 rejections be withdrawn.

**C. Conclusion**

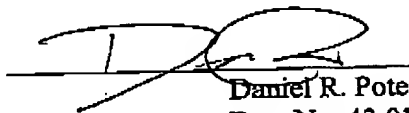
In view of the above remarks, Applicants respectfully submitted that the foregoing remarks fully address the Examiner's objections, and that all of the pending claims comply with 35 U.S.C. § 112, are patentable over the art of record, and are in condition for allowance.

A Notice of Allowance respecting all pending claims is earnestly solicited. Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

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By



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